

SENATE BILL NO. 333

INTRODUCED BY SMITH, CAMPBELL, DOWELL, GILLAN, HANSEN, LENHART, MUSGROVE, TROPILA,
WILSON, WINDHAM

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING A SCHOOL DISTRICT'S USE OF ITS RETIREMENT FUND TO PAY FOR BENEFITS FOR SCHOOL DISTRICT OR COOPERATIVE EMPLOYEES; REQUIRING A SCHOOL DISTRICT TO CHARGE THE RETIREMENT FUND FOR RETIREMENT BENEFITS FOR A DISTRICT EMPLOYEE WHOSE SALARY AND HEALTH-RELATED BENEFITS ARE PAID FROM THE DISTRICT'S IMPACT AID FUND; REQUIRING A COOPERATIVE TO CHARGE THE RETIREMENT FUND FOR RETIREMENT BENEFITS FOR A COOPERATIVE EMPLOYEE WHOSE SALARY AND HEALTH-RELATED BENEFITS ARE PAID FROM THE MISCELLANEOUS PROGRAMS FUND WITH MONEY RECEIVED FROM THE MEDICAID PROGRAM; AMENDING SECTION 20-9-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement costs and retirement fund. (1) The trustees of a district or the management board of a cooperative employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's or the cooperative's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal

1 social security, and unemployment insurance systems from the retirement fund for the following:

2 (i) a district employee whose salary and health-related benefits, if any health-related benefits are
3 provided to the employee, are paid from state or local funding sources;

4 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are
5 provided to the employee, are paid from the cooperative's interlocal agreement fund if the fund is supported
6 solely from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321,
7 or are paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the
8 medicaid program, pursuant to 53-6-101; and

9 (iii) a district employee whose salary and health-related benefits, if any health-related benefits are
10 provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; and

11 (iv) a district employee whose salary and health-related benefits, if any health-related benefits are
12 provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514.

13 (b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative
14 shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance
15 systems from the funding source that pays the employee's salary.

16 (3) The trustees of a district required to make a contribution to a system referred to in subsection (1)
17 shall include in the retirement fund of the final budget the estimated amount of the employer's contribution. After
18 the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the
19 systems in accordance with the financial administration provisions of this title.

20 (4) When the final retirement fund budget has been adopted, the county superintendent shall establish
21 the levy requirement by:

22 (a) determining the sum of the money available to reduce the retirement fund levy requirement by
23 adding:

24 (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal
25 year;

26 (ii) oil and natural gas production taxes;

27 (iii) coal gross proceeds taxes under 15-23-703;

28 (iv) countywide school retirement block grants distributed under section 245, Chapter 574, Laws of 2001;

29 (v) any fund balance available for reappropriation as determined by subtracting the amount of the
30 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal

1 year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating
2 reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and
3 must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement
4 fund budget.

5 (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school
6 fiscal year, excluding any guaranteed tax base aid.

7 (b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of
8 the levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final
9 retirement fund budget.

10 (5) The county superintendent shall:

11 (a) total the net retirement fund levy requirements separately for all elementary school districts, all high
12 school districts, and all community college districts of the county, including any prorated joint district or special
13 education cooperative agreement levy requirements; and

14 (b) report each levy requirement to the county commissioners on the fourth Monday of August as the
15 respective county levy requirements for elementary district, high school district, and community college district
16 retirement funds.

17 (6) The county commissioners shall fix and set the county levy or district levy in accordance with
18 20-9-142.

19 (7) The net retirement fund levy requirement for a joint elementary district or a joint high school district
20 must be prorated to each county in which a part of the district is located in the same proportion as the district
21 ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the
22 counties affected shall jointly determine the net retirement fund levy requirement for each county as provided
23 in 20-9-151.

24 (8) The net retirement fund levy requirement for districts that are members of special education
25 cooperative agreements must be prorated to each county in which the district is located in the same proportion
26 as the special education cooperative budget is prorated to the member school districts. The county
27 superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each
28 county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net
29 retirement fund levy for each county in the same manner as provided in 20-9-152.

30 (9) The county superintendent shall calculate the number of mills to be levied on the taxable property

1 in the county to finance the retirement fund net levy requirement by dividing the amount determined in
2 subsection (5)(a) by the sum of:

3 (a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified
4 by the superintendent of public instruction; and

5 (b) the taxable valuation of the district divided by 1,000.

6 (10) The levy for a community college district may be applied only to property within the district.

7 (11) The county superintendent of each county shall submit a report of the revenue amounts used to
8 establish the levy requirements for county school funds supporting elementary and high school district retirement
9 obligations to the superintendent of public instruction not later than the second Monday in September. The report
10 must be completed on forms supplied by the superintendent of public instruction."

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12 **NEW SECTION. Section 2. Effective date -- retroactive applicability.** [This act] is effective on
13 passage and approval and applies retroactively, within the meaning of 1-2-109, to retirement benefits paid in
14 the school fiscal year beginning on or after July 1, 2004.

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